

## **Property Tax Reappraisal Committee**

November 21, 2003  
MACo Conference Room  
2715 Skyview Drive, Helena, Montana

### **MINUTES**

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file at the Department of Revenue. Exhibits for this meeting are available upon request.

#### **COMMITTEE MEMBERS PRESENT**

Rep. Ronald R. Devlin, Chair  
Sen. Emily Stonington, Vice Chair  
Sen. Greg Barkus  
Sen. Robert R. Story, Jr.  
Sen. Ken Toole  
Rep. Gary Branae  
Rep. Larry Cyr

#### **COMMITTEE MEMBERS EXCUSED**

Rep. Rod Bitney

#### **STAFF PRESENT**

Dolores Cooney, Department of Revenue  
Rocky Haralson, Department of Revenue  
Jackie Williams, Department of Revenue  
Jim Standaert, Legislative Fiscal Division  
Prudence Gildroy, Secretary

#### **AGENDA & VISITORS**

Agenda (ATTACHMENT #1)  
Visitor's list (ATTACHMENT #2)

#### **COMMITTEE ACTION**

#### **CALL TO ORDER AND ROLL CALL**

**Rep. Ron Devlin** called the meeting to order at 9: 05 a.m. and the secretary noted the roll. He discussed the future meeting schedule. The committee is required by law to meet with jointly with the **Tax Reform Committee**. The committees would meet jointly in January for half a day or less and then separately which would save some travel expenses. **Dolores Cooney, Department of Revenue**, advised the estimated dates for those meetings would be January 12<sup>th</sup> and 13<sup>th</sup>. The meetings will be held in Room 317 at the Capital. **Chairman Devlin** indicated the other committee is not looking at property tax very hard because this committee is doing that. One of their recommendations is for a single class rate for all 12 classes in the neighborhood of 3%.

He noted the committee would be discussing the correlation between mill levies and taxable value. The lower the taxable value and tax rates, the higher the mills have to go in order to raise the same amount of revenue. If some of the tax rates are lowered and the taxable value is lowered, mill rates will go up. **Ms. Cooney** had a handout on the Uniform Property Tax Classification that was prepared for the other committee.

**Ms. Cooney** gave an overview of the agenda and the handouts given to the committee. **Chairman Devlin** addressed the budget. The **Tax Reform Committee** indicated to him they want to conclude their work by June of 2004. In addition to the joint meeting in January, there will be one at the conclusion. There was \$60,000 budgeted and a little under \$10,000 was spent so far between the two committees. He thought there could be 24 meetings between the two groups. **Sen. Emily Stonington** thought the other committee envisions coming up with a tax reform proposal they would try to market around the state. She thought this committee ought to look at the issues they are trying to address and plan their time schedule accordingly. **Chairman Devlin** indicated they would take this up when they meet in January, keeping in mind they will probably have to schedule a meeting with the other committee.

**Sen. Bob Story** advised one of the things that will determine what the committee wants to look at is what the other committee decides to do with property tax relief if they implement a sales tax. The chances of implementing a sales tax are probably not great. It would give some leeway and some options of how to deal with the reappraisal issue which is the charge of this committee more than fixing all property taxes. **Sen. Stonington** said if they decide to take on the issue of a single rate, that is a very complex issue. **Chairman Devlin** replied even if the rates are set a future legislature can adjust the percentage of taxable value that goes in before the tax rates. It doesn't really accomplish a lot to say there is a uniform tax rate if they are going to adjust the percentage of taxable value before they get to the tax rate. Even if they are going towards 3%, it is not actually uniform. He thought the legislature would preserve the status quo as far as the percentage each class brings in. He couldn't see them lowering utility property to 3% and have 100% value on homes at the same time. That has not been the will of the legislature in the past. **Sen. Story** advised one of the things they will start looking at after the first of the year in the **Revenue and Transportation Interim Committee** is the utility issue. They will know more about Northwestern and whether the property is sold to the Coops. There will be some tax problems to deal with and that committee will look at the fallout in Class 9. **Sen. Stonington** indicated they were told in the Energy Committee that it is not unlikely the bankruptcy process would be extended. Northwestern is the only company allowed to submit any kind of serious plan. The only other thing that could happen would be if the creditor committee decides to push the whole thing into a Chapter 7 bankruptcy instead of a Chapter 11. They didn't think that was too likely between now and mid-January. **Sen. Story** indicated the reason the Electric Coops put a proposal forward was to put pressure on the creditor committee regarding another option. Depending on the make-up of the creditor committee, they may not wait for a re-organization. **Sen. Stonington** said a wild card in that is what they do about the qualified facilities contracts. There is talk those contracts will be offered to go back to market rate rather than stay at high rates if they want any contract at all. **Sen. Story** said Northwestern said the purpose of the bankruptcy is to re-organize some of those qualified facilities. Bankruptcy is their only lever to do that.

**Dave Ohler, Department of Revenue**, distributed a handout detailing the Montana constitutional provisions.

- Article VII, Section 3 – Property Tax Administration provides “The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law.”
- Key concepts included: the state, not local governments, appraises, assesses and equalizes value; the legislature determines the manner in which property is appraised, assessed and equalized; property valuation must be equalized and the legislature has determined that property should be appraised and assessed based upon market value.
- Article VIII, Section 4 provides “All taxing jurisdictions shall use the assessed valuation of property established by the state.”
- Key concepts included: the state is solely responsible for determining the valuation of property; taxing jurisdictions must use the state’s values.
- Article VIII, Section 5 – Property Tax Exemptions provides “The legislature may exempt from taxation: property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately. Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes. The section also provides “The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.”
- Key concepts are the legislature has the power to exempt property from taxation, exemptions are applied to classes of property, the legislature has the power to create special improvement districts and the legislature may impose SID charges against otherwise exempt property which is “directly benefited” by the SID.
- Article VIII, Section 7 – Tax Appeals
- Key concepts are the legislature has the power and the duty to provide for appeals of property tax appraisals, assessments, equalization and taxes. The appeal process must be independent, and the appeal process must include a local review procedure.
- Article II, Section 4, is the equal protection clause.
- Key concepts are laws must treat people who are similarly situated equally, the legislature may treat people differently with respect to property taxes so long as the differing treatment is not arbitrary or capricious and so long as the differing treatment is rationally related to a legitimate state interest; the legislature may create classes of property and provide different tax rates for each class; the legislature may create sub-classes of property and provide different tax rates for each sub-class; property within a class or within a sub-class must be treated equally; and temporary, transitional disparities in value or tax between members of a class are acceptable so long as they are remedied within a reasonable amount of time.

**Chairman Devlin** recalled from the prior meeting they wanted a review of constitutional provisions. **Sen. Story** indicated it had to do with getting away from a market value system and going to some other form of assessing residential property. It has always been the understanding since he's been in the legislature that it couldn't be done without a constitutional change. **Mr. Ohler** advised Article VIII Section 3 is the key to that question. The state is required to equalize the valuation of all property. The value of property is not equalized when its based on acquisition cost and when there are two identical pieces of property that are being taxed and valued differently. His concern was if the state wanted to go to an acquisition value method of property tax that it would be wisest to amend the Constitution as California did went they went to acquisition value. **Mr. Ohler** thought it was a constitutional amendment that provided for acquisition value in California. The flip side of that is relative to equal protection. That issue went to the U.S. Supreme Court. The Court determined it wasn't an equal protection issue because California had some rational basis for using the acquisition value. He assumed California probably had something similar to what Montana has prior to that time. It is standard around the country.

**Sen. Stonington** asked for more information about the equal protection clause. **Mr. Ohler** advised property or people can be treated differently so long as the treatment is rationally related to a legitimate state interest. He recalled one of the interests California proposed as their interest in acquisition value was the maintenance of neighborhoods. Using acquisition value tends to keep neighborhoods together making it less desirable for people to move. The Court found it was a legitimate state interest and that the acquisition value of property tax was rationally related to that. It encouraged people to stay in their homes because property taxes would be lowered. There were two state interests the Supreme Court identified as legitimate interests and acquisition value supported those legitimate state interests. **Sen. Story** wondered when they started building in exemptions so acquisition value could be moved how they could still maintain those interests are protected. **Mr. Ohler** didn't think they'd gotten to that. The Supreme Court heard the case not too long after acquisition value first came into California. **Sen. Stonington** asked if there has not been further litigation. **Mr. Ohler** said he was not aware of any at the Supreme Court level. He assumed there has been some in California. **Ms. Cooney** advised there is current litigation in California regarding the commercial side. **Sen. Ken Toole** asked whether California's acquisition value applies to everything. **Ms. Cooney** indicated yes and they are currently working with the commercial segment. **Sen. Toole** said the proposals they saw in the last legislative session were just about residential. **Ms. Cooney** indicated they did include commercial and were across the board.

**Sen. Greg Barkus** asked with the equal treatment provision of these sections how the 20 acre classification applies. If there is an identical house on 19 acres and an identical house on 20 acres it seemed to him there would be inequitable treatment. (*Tape 1, Side B*) **Mr. Ohler** said a line had to be drawn somewhere. The legislature drew the line at 20 acres. He assumed they were trying to discourage maintenance of larger parcels in rural Montana and that was the rationale. As long as it is not arbitrary and totally out of line with what they are trying to do, line drawing is okay. **Sen. Barkus** said there is really no need to demonstrate agricultural use of land—it is solely based on the size of the parcel. **Mr. Ohler** said they were talking about different classes of property—agricultural versus residential. The line drawing is to determine class. That is the nature

of creating classes. **Sen. Story** asked for an explanation of what “equalized” means in the context of the Constitution. **Mr. Ohler** explained the cases that deal with equalization of value have to do with whether the legislature has determined to appraise and assess property based on market value. Equalizing in that context means equalizing properties relative to their market values. In the *Roosevelt* case in 1997 when there was the 2% phase-in, the problem was Mr. Roosevelt’s property values were substantially reduced yet he was only moving 2% towards his reduced market value whereas other properties were receiving the benefit of their market value. There were discrepancies between market value. Another case, *Baron*, had the same issue. There were properties at 115% of market value and properties at 85% of market value. The Court found those to be in violation of the equalization provision of the Constitution. The legislature gets to pick the method of valuation, but there has to be equalization. The Court recognizes there are going to be discrepancies over time. There can be some un-equalization over an appraisal cycle so long as within a reasonable amount of time there is a reappraisal to equalize everybody to market value. **Sen. Story** said the longer the phase-in the farther from equalization and the more risk. **Mr. Standaert** said business equipment is currently 3%. Other classes are at 6% and 12%. If the business equipment rate drops to zero, he wondered if other classes would have a case in court. **Mr. Ohler** advised the legislature can create classes and put property in classes and as long as properties within a class are treated the same it is generally okay. If there is particular business equipment such as pollution control equipment in Class 5, it may end up being classed at a higher rate than business equipment in Class 8. He thought that as long as classifications are legitimate, they can be taxed differently. **Sen. Story** asked about the difference between a refinery and a generator that they should be in different classes. **Mr. Ohler** advised the legislature may decide they want to encourage refineries and aren’t really interested in encouraging power plants, so they make those twice as much. Those are legitimate public policy choices for the legislature. **Sen. Story** said when they were originally classified there may have been some logic. Since then rates have been adjusted. **Joe Roberts, State Tax Appeal Board**, wondered if there was any distinction the legislature makes that wouldn’t be constitutional. He asked if there is a constitutional requirement to equalize, but the legislature can make whatever classification they want, what that language means. It seemed to him that if the business equipment tax goes to zero, the people that are paying a higher rate because they are classified as pollution equipment probably have a pretty good lawsuit.

**Sen. Toole** said equalization refers to valuation, not the establishment of classes. In theory valuation should be mechanical and the distinction between classes is a policy decision. **Mr. Ohler** advised an example was the *Roosevelt* case with the 2% phase-in. The Court looked at the stated reasons for the 2% phase-in. The legislature had expressed concern about all the property tax money coming in. There would be too much property tax money coming in unless there was a phase-in. Roosevelt should have gotten a huge tax break but instead got a 2% phase-in. That ended up not validating the rationale of the legislature.

**Chairman Devlin** asked about the ad valorem system and if it is set by the legislature and not in the Constitution. **Mr. Ohler** confirmed that. **Chairman Devlin** asked when they set up classes, if they use production values and income values to that class they are not in trouble with the equal protection clause and **Mr. Ohler** advised no.

**Sen. Toole** wondered if there was a system in place where people could defer some percentage of the tax liability until the time the property changes hands, if there would be equalization issues. **Mr. Ohler** asked if there would be a legitimate state interest in doing that. **Sen. Toole** said it could be argued as neighborhood protection, stability, etc. **Mr. Ohler** said to the extent that clear interest could be articulated, then it would not be an equalization problem. **Chairman Devlin** asked if the idea is to incur the liability and it is remitted at the time of sale. He asked if that is not a sales tax. **Mr. Ohler** said it is property tax with deferred payments. **Mr. Toole** said the problem is people buying property at places like Whitefish Lake and property values start going up. A property owner has the value but it is meaningless until the money and the property is in motion. The sale is not being taxed; the property is being taxed when the property owner has the money from the increase in value. He was not sure that could be done, but that is the problem they face.

**Sen. Barkus** asked if the income provisions in **Sen. Story's** bill, SB 461, create unequal treatment of property owners. **Mr. Ohler** said the question is whether there is a legitimate state interest in doing that and whether it is rationally related. It could be argued in areas where property values have increased substantially people with more money can afford to absorb the tax increase whereas lower income people can't and could be taxed out of their house. It is okay to treat people differently for a rational basis. **Sen. Barkus** asked if he is prepared to defend that and **Mr. Ohler** said he probably will.

**Ms. Cooney**, in answer to a previous question, stated within a class, other states appraise at market value and in certain cases hold this value down with taxes. As a result there may be taxpayers paying different rates within the same class if there is a compelling reason.

**Sen. Stonington** spoke to the arbitrary 20 acre parcels and ineffective tax policy. **Mr. Ohler** commented he had been giving a general overall view and some things have not been challenged in court.

**Sen. Story** said property has to be equalized within a class. Because there are statewide mill levies, that means a class has to be equalized statewide. Without a statewide mill levy and if the largest milling jurisdiction were a county, he wondered if it would make any difference if you were not equalized between counties. **Mr. Ohler** thought it has to be statewide as opposed to countywide.

**Chairman Devlin** said the committee is supposed to be studying the effects of reappraisal. Most taxpayers are interested in the dollars they pay and don't care what the appraisal is.

**Jim Standaert, Legislative Fiscal Division** explained revenues for K-12 education. HB 667 was passed in 1994 and established a minimum and a maximum budget. Before that schools had a minimum but no maximum. Property tax increased over the years through the year 2000 and then dropped down in 2001. Starting in 2002 the schools no longer get motor vehicle taxes but instead get the HB 124 block grant which is equivalent to what they were getting in motor vehicle taxes. Federal revenues have doubled since 1994 and

other revenues have increased also. Within the state general fund, business taxes have increased from 11% to 14% and dropped back to 12%. Business taxes include corporation taxes, telephone taxes, rental car taxes, insurance premium taxes, investment licenses, contractor's tax and the inheritance tax. The drop in 2002 was because the inheritance tax ended. Consumption taxes have increased over the ten year period. Interest has declined as a proportion of the total probably due to lower interest rates. Natural resource tax revenues have been going down. Property taxes collected by the state were 24% in 1992 and currently are 21% of revenues. Part of the reason is the 95 mills are fixed. **Sen. Toole** asked what percentage is vehicle tax revenue. **Mr. Standaert** thought it was probably less than a quarter. **Sen. Story** noted all of the vehicle money comes to the state now as a pass through and he wondered if that shows up as revenue. **Mr. Standaert** affirmed it shows up as revenue. In 2002 when HB 124 was effective all of the vehicle taxes came to the general fund and are shown in 2002. The next category was interest and income on state lands. A lands trust is invested and generates interest. The catch-all category for "all other" was 5%. *(Tape 2, Side A)* Income taxes were 36% in 1992 and now are 41% of the total revenue stream. On the spending side, reimbursements to local jurisdictions are for tax reductions and in 1992 there was one reimbursement scheme. When HB 20 reduced business equipment taxes to 9%, the state decided to reimburse local schools and the counties and cities for that. At that time it represented 1% of general fund spending. By 1997, there were two reimbursement schemes—HB 20 and SB 417 which reduced the business equipment tax from 9% down to 6% and schools, counties and cities were reimbursed. In 2002, HB 124 block grants were reimbursements for SB 200 which lowered the business equipment tax to 3% and got rid of the tax on livestock. HB 128 reduced the telecommunications tax rate and HB 174 did the same thing for electrical generating equipment. The motor vehicle money was taken away from the schools, counties and cities, and the video gaming money was taken away from counties and cities. It was all brought into the general fund and reimbursed in the same exact amount. In the case of schools those are called HB 124 block grants and to counties and cities they are called entitlements. In 2002 the total for schools was 42%. In 1992, 47% of total general fund was being spent on schools. The amount dedicated to schools has declined by about 5%. The total has gone up even though the share has gone down.

**Sen. Toole** asked if the dollar amounts are constant and if they are adjusted for inflation. **Mr. Standaert** indicated they are actual dollars. **Sen. Stonington** asked where reimbursements to local governments are shown. **Mr. Standaert** said they are in a category called Department of Revenue. The "all other" category fluctuated. Public Health grew rapidly between 1992 and 1997. Corrections dropped between 1992 and 1997 but went up in 2002. The share for higher education was cut from 15% to 10% as a share of total spending. **Representative Devlin** asked if the property tax category included both the state 95 mills and the local share. **Mr. Standaert** explained it does not include the state property tax. It is in the heading called state revenue. The next charts he presented dealt with where property taxes go. Property taxes in 2002 were \$764 million. The K-12 total share of those property taxes has been stable over the ten year period at between 63% and 64%. Taxable value rose until 1997 and then dropped. The cities have stayed fairly constant and the counties have increased from 19% to 22%. The chart showed University and welfare mills dropped and the miscellaneous districts have also dropped. He explained mills in miscellaneous districts have actually increased

substantially. The next charts showed assessed values of different kinds of property. The share for business equipment has been constant at 8%. Centrally assessed classes of property dropped from 13% to 11%. They are higher in terms of taxable value than in terms of assessed value because much of it has a higher tax rate than most of the other classes of property. Agricultural real estate dropped slightly. Residential real estate increased from 43% to 50%. Commercial real estate has stayed constant. In the taxable value chart centrally assessed properties were a much bigger piece of the pie. All other stayed constant and agricultural land has dropped slightly. Residential real estate increased from 32% to 42%, commercial real estate increased from 12% to 15% and business equipment dropped from 14% down to 7%. The next chart showed property taxes paid by each class. Centrally assessed paid 28% and has dropped over time because some of the tax rates have been reduced. Agricultural land has been fairly stable. Residential real estate has gone up. The legislature tried to adjust for that by lowering the tax rates and creating homestead exemptions. Commercial real estate has increased substantially and business equipment has dropped. The average mills across the state were 338 in 1992 and 481 in 2002.

**Sen. Story** thought it was important to note that one reason residential property is a bigger portion is it is almost all located in cities. In the 1992 and 1997 charts it was actual taxes paid. He pointed out not all tax relief is picked up by people paying property tax; some of it is picked up by reimbursement. He said that gets lost in the political discussions of tax shifting. The new mills coming on only apply to what is left in the base. The pie is bigger than what the charts show so all of the percentages are a little smaller. **Sen. Stonington** asked about the impact of adding in the other fees that are assessed. **Sen. Story** said those are mostly not ad valorem based. General fund money is used to backfill the base number to hopefully keep up with the mill levy growth. **Mr. Standaert** advised motor vehicles were not in the tax base in 1992. In 1992 2% of value could be taxed. In 2002 it was on a flat tax basis. Vehicle fees were never really in the charts.

**Chairman Devlin** asked a question about the mill levy. There was a jump in taxable value between 1992 and 1997 and from 1997 to 2002 there was a reduction in taxable value. The average mills from 1992 to 1997 went up 34 mills and jumped up to over 100 in the next five year period. His guess was that was directly related to the loss of taxable value that took place in that time and so the mill levies automatically went up to raise the needed revenues. **Mr. Standaert** advised the problem with that theory is the state reimbursed for the loss of that taxable value. The local jurisdictions are receiving the money they received before. **Chairman Devlin** said in the relationship between mills and value, there has been a dramatic increase in the average mills statewide. He wondered if the reason was legislative action or local approval for services. **Mr. Standaert** replied the county and city mills have gone up but that does not account for the increase between 1997 and 2002. The increase is in the schools. Part of the reason is the state share of total school funding has dropped but the total dollars have increased. Total school spending from 1994 to 2002 has gone up 3.5% per year during the period. Inflation has been 2.5% during the period. Counties and cities are under a limit. They cannot raise their property tax revenue more than half the rate of inflation. They can take last year's revenue plus half the rate of inflation. Schools are not under that rule. In the general fund there has been a cap because of declining enrollment and that cap has been



coming down which has been forcing the schools to not spend as fast. Some schools have spent less than they did the year before. In 2002, a new rule was made that schools did not have to follow maximum budgeting if they can get the voters to vote it in. The schools were under a rule in the general fund that said they couldn't grow faster than 4% a year and the voters have to approve it. It is mainly the schools that have contributed to the 100 mill increase over the last five years. **Sen. Story** commented the other thing that caused some mill increase was in 1997 they started letting up on I-105 and put the float in. When the reappraisal was done in 1997, they let local governments adjust their mills to make up for lost revenue for the residential and commercial property reappraisal changes. They started the concept if taxable value was lost, local governments could get it back without a vote. There were some small increases there but besides the schools in the late 1990s and early 2000, a lot of cities started running mill levies. They had been under the cap for 12 or 15 years and decided to run 20 mills for safety, etc. **Mr. Standaert** said those were voted for. **Sen. Story** said nobody was voting mill levies very often in the early 1990s that he could recall. **Mr. Standaert** advised between 1994 and 1998 there were about 100 schools under the new HB 667 that were below their 80% minimum budget and those schools were required to increase their budgets over the five year period to increase their budgets to get up to the 80%. For those 100 schools, there was a tremendous increase in mills they had to levy to get up to that base budget. He explained the chart showed the effective tax rate which is the taxes paid divided by market value and assessed value. Most of them went up between 1992 and 1997 and dropped back in 2002. Between 1992 and 1997 they probably went up because there wasn't much happening in terms of the legislature trying to ameliorate and mitigate the tax increases. Between 1997 and 2002 there was a lot of legislative action to try to reduce the effective tax rate. The biggest drop was in business equipment which is currently down to 3% which is in line with what the state of Idaho has on business equipment. North Dakota and South Dakota don't have a business equipment tax. The biggest was central assessed because they are in the 6-12% tax brackets. The next chart showed what has happened to school mills. Schools get their money from both the district and the counties. Both of those tend to be levied mills. The chart showed 83% of districts levied less than 60 mills in 1992. Only 1% of the districts paid over 120 mills in 1992 whereas that share has gone up 14%. The less than 60 mills schools dropped from 83% of the total to 40% of the schools in 2002. In a combined chart of the district and county mills, only 5% of the districts had over 120 mills and now that is up to 35%. The ones with less than 60 mills have dropped from 45% down to 19% of the total. He thought it would be somewhat the same thing would be true for counties and cities but it wouldn't be nearly as dramatic over the ten year period.

The next charts were done by **Jim Standaert, Legislative Fiscal Division**, and showed the variations in total consolidated mills in each city in the state. *(Tape 2, Side B)* He addressed the relationship between mill levies and taxable value. He found a small positive relationship between mills and the size of schools and a small negative relationship between mills and non-levied revenue per ANB. This indicated the level of mills in the jurisdiction is related to other factors such as a higher preference in some communities to provide education services than in other communities. The next chart showed average state, county and school mill levies by county and two charts compared K-12 with other states showing the share of K-12 revenue in FY 2000. Montana was at 45% or about 32<sup>nd</sup> in the nation. Hawaii is 89% and the lowest was the District of

Columbia. He noted there is a lawsuit coming up in January regarding the adequacy of state funding of K-12 in the state. Montana is ranked 7<sup>th</sup> in share of federal revenues. Montana ranks 25<sup>th</sup> in the share from local sources. Montana ranks 37<sup>th</sup> in revenues spent per student. As a percent of personal income, Montana is 6<sup>th</sup> highest in the nation in terms of spending for K-12. **Sen. Story** asked if the 44.7% is all school revenues or general fund revenues. **Mr. Standaert** explained that is the state share of all school revenues. **Sen. Story** asked about the state share dropping and **Mr. Standaert** confirmed general fund spending is dropping. If HB 124 block grants are counted as state money versus local money, the state share would be 68-69%. **Sen. Story** said the real reason the number dropped is the construction of the funding formula. Above 80% it is all local money. Any district that goes above 80% drives the state share down. **Mr. Standaert** confirmed those schools that started out at 80 and are now over 100 decided on their own to spend more. The state has no say about that. Between 1995 and 1997, the state did nothing to increase the schedules at all. The schedules from 1994 were dropped by 4.5%, which reduced the state share of spending by 4.5%, and held at that level for three years. In 1998, 1999 and 2000 there were increases. There was a huge increase in 2001. More state funding reduces pressure on the locals to raise money. **Sen. Story** said only those that are above 80%. Once the schedules are increased those districts below 80% have to generate more local money to get back to 80%. **Mr. Standaert** confirmed that is true. **Sen. Stonington** asked about the lawsuit. **Mr. Standaert** advised it is an adequacy lawsuit. Previous lawsuits have been equalization lawsuits. This suit asks if the state is providing adequate resources to meet the constitutional duty for the state to ensure a basic quality system of education. He referred to a chart which showed federal funds doubled over the ten year period. District taxes have grown 60% over the ten year period. In FY 2002, HB 4 bumped the GTB going to schools which forced an automatic decline in local property taxes. The growth resumed the next year and has been going up since. Total spending has increased by 31% over the period which was above the inflation rate of 25% over the period. General fund spending has only gone up 22%. Part of that has been because of caps on the general fund regarding enrollment. State aid has gone up by 11% in this period and enrollments have fluctuated. In his opinion the legislature knew it had to downsize and hold the line in terms of state spending. During this period, the locals had to pick up the slack. Once enrollments start growing again, the state will kick in more money through the formula.

The next chart addressed property tax limitations. The counties and cities get the previous year's property tax revenue plus ½ the rate of inflation averaged over three years. Anything above this has to go to the voters. The increase can only be on property that was existing in the prior year. If new property comes into a jurisdiction, counties and cities can get a little more. At one time the schools were under I-105 until that was changed by the legislature. The transportation funds, the retirement funds, etc., are under no limitation. They are all permissive levies. The school district trustees can decide to raise them or not. There is some accountability to the voters, but no direct accountability established by the legislature. One of the reasons mills went up is between 1994 and 1999 schools were required to come up to the base budget in the general fund. For the years 1994 through 2001, spending in the district general fund couldn't exceed the maximum except for a few exceptions. In 2002, **Sen. Bill Glaser's** bill allowed schools to keep the previous year's spending level and spend above their maximum budget. Another reason mills have gone up is schools within the window of 80% to 100% have

increased their spending. There are more districts at the 100% now than ten years ago. There are over 100 schools that are above their maximum budget. Allowing the soft caps will be in effect for five years beginning in 2002. He predicted a train wreck. In the final year of the soft cap, spending will have to come down all at once. It will be a big relief for the taxpayers in those districts, but schools are not going to have that money.

The next chart showed how much total revenue is paid for by property tax. In FY 2001, total county revenue was \$623 million. Property taxes paid \$170 million or about 27% of total revenue. All other revenue was from county sources other than property taxes. Total spending for cities was \$551 million. Property tax revenue was only \$67 million which accounts for 12% of city revenues. **Sen. Stonington** asked the source of the rest of their revenue. **Sen. Story** offered it was through fees such as garbage, sewer, etc. **Mr. Standaert** indicated schools get nearly half of their revenue from residential property taxes. This includes the state portion of those property taxes.

- Break 11: 10 a. m. -

- Reconvene 11:20 a. m. -

**Mr. Standaert** continued his presentation with the impact of reappraisal on mills. A chart compared 2 jurisdictions and he explained the differences. In order to mitigate the impacts of reappraisal, the tax rates would need to be lowered enough on Classes 3, 4 and 10 to bring the taxable values back to where they were before. With different percentage increases in reappraisal in different jurisdictions, any statewide solution would involve winners and losers. Another option would be to lower the statewide mills. Committees over the years have looked at doing that. That would help real estate and commercial property experience the reappraisal but not to the same extent as tax rate reductions. The homestead and comstead exemptions further target those properties that experience the reappraisal. **Sen. Story** said when they start affecting taxable value and who pays taxes, it affects the GTB side of the school funding formula and where the money goes. He asked if **Mr. Standaert** had looked at that distribution. The same amount of money is being spent; it just goes to different places. **Mr. Standaert** addressed the effects of reappraisal on the GTB and the mitigation in the 1997 reappraisal. In taxable value per student across the whole state there is a huge variation. Some districts had high taxable value and some were very low. The way GTB works, the lower the taxable value the more state GTB is received. It is actually a subsidy for the poorer districts in the state. The 1997 reappraisal took that range of taxable value per student and squeezed it down so there wasn't as wide a disparity any more. When that happened the state actually saved money. There were some districts that changed and did not get GTB after the reappraisal and vice versa. **Sen. Story** said effectively most districts get some GTB. The ones that don't are Colstrip and elementary districts in eastern Montana with a low population. *(Tape 3, Side A)* He thought the low and the high might average out on district wide basis. **Mr. Standaert** thought in a stable community with not much turnover the assessed value is going to be constant. If the GTB is based on the assessed value, those districts will look poorer according to the formula and get more and more GTB. **Sen. Stonington** said homes would be increasing in value but districts would be getting more and more state aid. **Mr. Standaert** said that would be because they are a stable community and the GTB formula is based on the assessed value rather than the market value. **Sen. Story** advised on the other end of the spectrum are the stagnant

places where the values are already low and aren't dropping. **Mr. Standaert** revealed one of the things **Sen. Ryan** is looking at is taking the centrally assessed property taxes and bringing them all into the state. Then the Colstrip school district wouldn't look rich any more and might get GTB which might mitigate some of the pain but not all of it.

**Mary Whittinghill, Montana Taxpayer's Association**, asked about the fluctuations in the school district mill levies. She understood there was some legislation to allow districts to move some funds around making permissive mill levies more available to use by doing some transfers. **Mr. Standaert** indicated he did not know the impact of the legislation except for the general fund allowed moving moneys between all the other funds. **Mr. Whittinghill** asked about the charts showing the growth of the different classes of property over time and wondered how much of the growth is because Class 4 is the largest growing class of property in Montana. **Mr. Standaert** said **Mr. Simshaw** always used 3.4% as the average amount of new property added to Class 4. **Ms. Cooney** advised if it is something they want to look at, they might be able to look at from the standpoint of taxable value versus value. **Ms. Whittinghill** commented the 2001 legislature allowed counties to permissively levy without voter approval and many municipalities have been very conservative. Some increases have been as high as 30 additional mills. Her office will be doing an analysis of that and she will bring it to the committee.

**Sen. Story** asked if there is an equity problem between the classes because Class 3, 4 and 10 are reappraised every six years and they are always lagging six years behind their value while the other classes are annually appraised and are at full value. **Ms. Cooney** advised because they are in separate classes, they can be reappraised within their class. **Sen. Story** asked why is there not a problem with equity when assessing one property at less than full value six years behind the system and all the other property gets reappraised every year. **Dave Woodgerd, former chief legal counsel, Department of Revenue**, thought there is a potential problem. He didn't know what a court would say. **Mr. Roberts** commented he had been trying to educate himself by reading cases that affect property taxation in the state. There was a case out of Cascade County based on some sales ratio studies where there was a discrepancy of 34%. With a system that requires an elaborate appraisal process there is probably no physical way for everything to be current. The Court clearly recognized that in the case and said a reasonable, rational method by the legislature on a cyclical basis to update those values, the Court will probably go along with it. Whether the Court is going to feel that is a rational way to do it will probably always be subject to question. **Sen. Story** said he brought it up because as they look at the reappraisal issue, the cycle comes up—how often to reappraise these cyclical properties. He thought the longer the cycle is stretched, the more equity problems and sticker shock are created. It doesn't make any difference to the taxpayer if those increases are phased in. If they aren't phased in or if the cycle is too long, those classes are way behind the market value compared to the ones that are annually appraised.

**Sen. Toole** asked if they arrived at six years because it was as fast as it could get done or what was the rationale. **Sen. Story** advised it was every three years in 1993 and 1996; the legislature considered a number of options and settled on six years. It either had to be done annually and not mitigate or every two, four, or six years so the legislature can deal

with it. It can't be on a five year schedule. Doing it on three was part of the problem. One year the legislature would be in session and the next year nothing could be done without a special session. He thought two was too short.

**Ms. Cooney** informed the committee they would be talking about other states. Most other states appraise either annually or biannually. **Sen. Stonington** asked what has happened with staffing. **Ms. Cooney** advised there were 21 positions allocated to the department as they ramped up for reappraisal. Since then the department underwent META. During the META process there were a number of positions given up as efficiencies. The end result was a loss of up to 35 total positions in the area that was property taxes. Staffing is now at a lower level that they have ever been before. Upon further questioning by **Sen. Stonington**, **Ms. Cooney** advised the next reappraisal will be in 2007 because of SB 461. It will be done a year early which allows for the analysis to be ready for the legislature in 2007. **Sen. Story** advised if they decide to shorten up the cycle, he didn't know if they could do it with the up and down staff or if they would have to come up with another way of doing it. **Chairman Devlin** thought with the four year cycle the staff would only be gone about six months. **Ms. Cooney** noted the training period for appraisers is typically over a year. **Sen. Stonington** asked what happened to the appraisers from the last cycle. **Ms. Cooney** advised a combination of managers, appraisers and specialists accomplished the last reappraisal. Those appraisers not only perform reappraisal duties but also have the annual assessment duties. The last appraisal cycle was compressed into a very short time period. The appraisers are beginning work now for the 2008 appraisal cycle. Modeling will take place on an annual basis in order for quality assurance, etc. There is a work plan laid out for the appraisers to accomplish their work. **Sen. Stonington** asked if the 35 positions don't reflect those positions. **Ms. Cooney** advised those positions are gone and they could use more positions. **Sen. Stonington** asked if they are planning to do the next reappraisal with the current staff. **Ms. Cooney** said that's what they have and that is what the plan is based on. **Sen. Story** asked about staffing if the cycle was shortened and **Ms. Cooney** replied if the reappraisal was to look like the process used today, they couldn't do it with the staff they currently have. In a more compressed period, other states do it without an enormous appraisal staff. Many states utilize a sales analysis sales ratio process and annual marketing process allowing them to do a shorter reappraisal. Another statute mandates the property characteristics be viewed over a four or five year period but all values are brought up to market value.

**Ms. Cooney** presented three tables of a five year history of the different portions of the existing levies including county government mill levies, county wide school mill levies, average local school mill levies, and city/town mill levies. **Chairman Devlin** asked if county wide school mill levies are primarily transportation and retirement and if the average local school levies are general fund and **Ms. Cooney** indicated yes. **Sen. Stonington** commented West Yellowstone town mill levies had gone down largely because of their sales tax. **Ms. Cooney** said she was looking into what took place in Broadwater and Rosebud County to find out why they increased. **Sen. Story** advised Townsend built a new high school. He thought it would be interesting to know how much of this mill increase was voted and how much was permissive. They would have to ask the local jurisdictions. **Mr. Standaert** indicated the Montana School Boards Association did a survey of that last year. **Sen. Story** noted Helena voted 100 mills.

- break 12:00 p. m. -
- reconvene 1:10 p. m. -

**Chairman Devlin** said they would look at property tax assessment in other states to compare how they are similar to Montana and how they differ. **Sen. Story** requested **Ms. Cooney** look up the annual increase in the total for the annually reappraised property and get that information to the committee. She said she would email the information.

**Ms. Cooney** addressed the impact of reappraisal. In the last meeting **Sen. Story** asked for the revised numbers for increase. Those are 19.8% for residential and 19.7% for commercial. In the last legislature the bill for mitigating the reappraisal was SB 461. *(Tape 3, Side B)* **Sen. Story** asked about the largest amount of relief received by any individual. **Ms. Cooney** advised the average percentage change was 2%. **Sen. Story** said if the best they did for anybody was \$50, he didn't know if it was worth doing anything. **Ms. Cooney** advised the average tax savings was \$75 on the applications they received. **Sen. Stonington** asked who the applications were sent to. **Ms. Cooney** said over 24% receive an application annually. **Chairman Devlin** said the cost to the department was roughly \$60,000. Because these will be sent out each year, that would be an ongoing expense to the department. **Ms. Cooney** said it was an exceptionally high expense they had not anticipated. The requirements for the taxpayer are to submit their income tax forms. There will need to be more public training for taxpayers. They had to use income tax folks within the department because they were more familiar with analyzing these tax forms than the appraisers. The majority of people working on this last year are gone or retiring this year. **Chairman Devlin** said the taxpayers saved a total of \$145,000. He wondered about the fiscal note. **Ms. Cooney** recalled the fiscal note involved some programming. It was about \$50,000. They guessed one staffer and some programming changes. **Chairman Devlin** said if there was a \$3 million price tag to the general fund that didn't materialize, then revenue would be a little higher. **Ms. Cooney** said she would pull the fiscal note up and get that information back to the committee. **Sen. Story** asked if she ever compared the number of applications by county. **Ms. Cooney** indicated the numbers on the extended property tax sheet are properties in the county. There were quite a lot of applications where there were two residences and the taxpayer had the ability to choose which residence they wanted it to go to. Blaine County had a high percentage increase but the second level criteria for qualifying for the extended property tax assistance program was a tax liability of \$250 or more. The concentrations of the property were spotty. **Chairman Devlin** asked if the chart they had was based on where the property was located and **Ms. Cooney** confirmed it was. **Chairman Devlin** asked about Gallatin County and if some of those may be homes that belong to people living in another county or another state. **Ms. Cooney** said yes, it could be out of state. She indicated she had provided them a list of frequently asked questions about the program.

**Ms. Cooney** addressed a document concerned with the reappraisal time line. There have been changes in the reappraisal cycle, changes to the taxable value percentage, the introduction of the homestead and comstead tax relief and the changes in SB 461. **Chairman Devlin** asked about the 30% tax rate and an assessment factor beginning in 1974 and how that worked. **Ms. Cooney** advised in 1972 there was an assessed value

which they no longer have in Montana. The tax rate comes from market value to taxable value. Previously there was market value and 30% of that was assessed value; 12% of the assessed value was the taxable value. In the next reappraisal cycle in 1978, the assessed value was removed from that calculation. **Sen. Story** said they started doing the same thing again in 1997 but approached it from the other end. **Ms. Cooney** said the document was a history by **Mr. Simshaw**. There has been a steady taxable value decrease as the market values have been adjusted up in each cycle. They are using basic components that are available in every state. The difference is just in degree. One of the steps at the end of every appraisal is quality control.

**Rocky Haralson, Appraisal Specialist, Department of Revenue**, addressed a document put together by the tax policy and research department by pulling data from the database for a sales ratio analysis. The base year was January 1, 2002 and they pulled sales from January 1, 2002 through June 30, 2002. The state of Montana appraises at 100% of market value. They do not have a percentile or fractional assessment of market value. The most common method is to do a sales ratio analysis as a reappraisal is completed. They look at appraisal uniformity statistically. Various statistical terms were defined. The result of the analysis was the statewide overall assessment as measured by the median ratio was 99.18. The standard is assessed values should be within 10% of market value. They also look at how they did through the range of sales prices. That was calculated at 9.7%. The acceptable standard is anything below 15%. They had good uniformity within the appraisal all the way through the value range. The frequency distribution chart gave a visual indication of the reappraisal and where values would have been in relation to what was actually happening in the market if the reappraisal had not been done. **Sen. Stonington** asked if the appraised value was greater than the sale price and **Mr. Haralson** indicated yes. **Sen. Stonington** asked if there were more homes for which the sales value was less than the reappraisal and vice versa. **Mr. Haralson** said that was not correct. The majority of the population is falling into the 95 percentile level of the sales ratio. Out from the peak of the bell curve, the percentiles tell the percent of total sales within the bracket of the two standard deviations. **Sen. Barkus** asked how many sales were without reappraisal and how many were with reappraisal. **Mr. Haralson** said all of the sales being analyzed were with reappraisal. **Sen. Barkus** asked about the data. **Haralson** said if they had not done the reappraisal and had not changed values, that's where they would have been with assessed appraised value versus what's actually happening in the market. He further explained charts given to the committee. Most residential property is located within cities and towns and the conclusion was they were within .9% of market value. They are getting good results from the statistical analysis. **Sen. Story** commented in Whitefish property was undervalued compared to what is actual market. **Ms. Cooney** said in Whitefish for 69 sales there was a median of 93. She didn't know what the spread was. The larger the population the better picture they get. The data shows for those particular 69 sales, they weren't hitting market. She didn't know what was in the range. **Sen. Story** said on average it was about 7% below market. **Ms. Cooney** said when Lake County was looked at as a whole, there was a sale population of 72% and 98%. In Flathead County they were able to bring the sale population under 722. Statistics aren't going to be as reliable with smaller subsets. She thought it would be interesting to look at sales in Whitefish on an individual basis. **Sen. Story** said the next time Whitefish is appraised, they will not only get the natural growth but will pick up the slack lost in the last reappraisal. **Ms. Cooney** advised another thing

that affects statistics when doing ratio studies is types of properties inside a residential set. **Chairman Devlin** asked about the median of ratios and if everything that is over 1 means it was overvalued and anything under 1 means it's undervalued. **Mr. Haralson** said yes. **Chairman Devlin** said statistically they fall within the 15% range. **Mr. Haralson** said that is what is accepted internationally. The median is within 10% and the coefficient of dispersion is within 15%. He stressed the statistician is not an appraiser. The smaller the population they try to analyze the less reliable the results. The statistician wanted to go to the county level, but **Mr. Haralson** had explained in some counties there might not be a sale within that six month time line. The statistician grouped the counties to get a more meaningful analysis. One or two sales in smaller areas can swing ratios. **Sen. Story** asked if one of the charts shows how close they are within price ranges. *(Tape 4, Side A)* **Ms. Cooney** advised it wasn't broken down. The modeling process is a statistical process as they do the appraisal. The larger the sale population when modeling properties the more confidence in the appraisal. One of the things that is very difficult to do is the \$500,000 and above houses. Modeling those is next to impossible because they don't sell that often. They rely on other approaches to value such as the cost approach in appraising those properties. **Sen. Story** further questioned the chart. **Mr. Haralson** advised the price related differential is a statistic that measures the assessment regressivity or progressivity. Regressivity indicates high value properties are under-appraised relative to low value properties, and conversely progressivity exists if high valued properties are over-appraised. The PRD is a statistical measure. The target on the price related differential is one. Something less than one suggests progressivity and the range should be between .98 and 1.03 throughout the population.

**Mr. Haralson** stated they have a lot of confidence that the product they produced at the end of this reappraisal cycle was a good product. He thought that was reflected in the number of appeals. **Chairman Devlin** asked if they do this after every appraisal cycle and if the results have been better or about the same. **Mr. Haralson** said they've been good but this one was actually better than the last one. **Sen. Stonington** asked about his comment that the appeals have been minimal. She wondered if any area of the state is getting more appeals than another. **Ms. Cooney** indicated the initial protest levels were lower than they have every been. They have better tools with which to reappraise and more sales data. Few of the appeals have been appealed to county tax appeal boards. In October, there were less than 500 appeals filed out of 800,000 properties on a statewide level. Most of those county tax appeals are currently in the appeals process. Less than ten, so far, have appealed to the State Tax Appeal Board. They are not expecting a lot of state tax appeals to be filed. Common issues are land values in the areas like Whitefish Lake and Flathead Lake.

**Chairman Devlin** said the number of appeals in Class 4 are down. He asked about appeals for the centrally assessed property and if those complaints are going up. **Ms. Cooney** said she was not aware of the numbers and would have to check. The cases are larger, but she didn't know if there were more. The large ones are PPL and Qwest. She didn't know about appeals on industrial property. She continued that a lot of the states they looked at utilize sales ratio studies to index their properties to market value periodically as part of their reappraisal efforts. She explained a picture of sales tax and property tax selections as a percent of the whole for state and local government tax



collections throughout the United States. The property tax in Montana as a percent of total collections is 43%. 76% of that goes to local government and 24% goes to the state share. Colorado is a market value state that does annual assessments at 100% of market value on residential and commercial property. Their reappraisal is every other year. Colorado is different than some of the other states in that they have a limitation in effect. Their yearly revenue increases are restricted to local growth determined by a percentage change in student enrollment for school districts, a net percentage change in real property values or inflation or revenues limited to 5.5% of the prior year's revenues. This initiative was voted in a number of years ago to hold down the spending side. They have tax relief in the form of a homestead exemption. They also have tax relief for senior citizens in the form of elderly tax relief if they qualify by the income limits. Colorado is a sales tax state. Their sales tax collections are 29% of total revenues. Property tax collections as a percentage of the total are 28%. That is entirely local government funding. **Sen. Story** asked if local government means schools. **Ms. Cooney** said in this case it does mean schools. Property tax dollars are generally distributed to municipalities, counties, schools, and other local taxing entities. She didn't know if they have additional funding for their schools from state revenues.

**Sen. Barkus** provided information to the committee which was a summary state by state of the property tax. **Ms. Cooney** indicated this was put together in association with AARP and is an excellent document. **Sen. Story** asked if Colorado has a classification system. **Sen. Cooney** said they are not a single class state, but she didn't believe they have 12 classes. In the state of Florida sales tax collections are 37% of the total and of property tax collections, which are 34%, 5% goes to the state. Florida appraises at 100% of market value on an annual basis. Their component check is limited to new construction. They are a state with a large degree of building permits mandated on a statewide level that helps in their component check. Florida is a market value state. They have equalization, ad valorem after all exemptions are applied and a homestead tax exemption of up to \$25,000 off market value for those who qualify. There are other exemptions such as the widow's exemption and exemptions similar to Montana such as disabled veterans. A "save our homes" initiative was passed in Florida in 1995. Even though they appraise at market value, they limit the increase to 3% of the assessed value of the property for the prior year or if there is a percentage change in the consumer price index. The Florida model is similar to a bill in the last session by **Sen. Bob Depratu**. **Sen. Stonington** asked if they have an equal protection statement in their constitution. **Ms. Cooney** said they do. Either the method of assessment hasn't been challenged or they have done something statutorily. **Sen. Stonington** commented their homestead exemption is a constitutional guarantee. **Ms. Cooney** indicated they may have amended their constitution with the "save our homes" initiative. **Chairman Devlin** said it looked like every taxpayer in Florida gets a homestead exemption of \$25,000. The "save our homes" starts the year after the purchase and has to do with the increases. **Ms. Cooney** confirmed it does, and the homestead exemption is for residential properties that qualify. **Chairman Devlin** commented Montana allows a percentage for a homestead exemption and Florida uses a flat amount.

**Mr. Haralson** advised Idaho is similar to Montana in that they use 100% of market value. They have an annual reappraisal cycle. They are only required to do an on-site visit to each property within a five-year period of time. This is one of the states that use

sales ratio analysis, an annual trending and market modeling. They update their values yearly. The homestead exemption is 50% of market value. Exemptions are similar to Montana. **Chairman Devlin** noted in the Idaho property tax reduction program there is an income test. He assumed their constitution is similar and has an equal protection clause, etc. He wondered if it has ever been challenged. **Ms. Cooney** said there has been no case. They have a very similar constitution.

According to **Mr. Haralson**, the state of Michigan is a fractional assessment state. They determine market value but then take 50% of it for their assessment value. They do an annual reappraisal. They have a same owner cap of 5%, a homestead exemption, and disabled veteran exemption. They have a new summer property tax that is used to solely to fund educational programs within the state. **Ms. Cooney** pointed out Michigan also had a constitutional amendment in 1995 regarding their property taxes. Their limitations are part of that. **Sen. Stonington** said it sounded like Michigan separates local government and local school taxes and the state is a separate billing. **Ms. Cooney** indicated California is another state with multiple tax bills. **Chairman Devlin** asked about the cap and how it works. **Ms. Cooney** indicated it is similar to Florida. The 5% is 5% of the market value increase. If the property is sold, the cap comes off and it is assessed at market value. **Sen. Story** asked what they do with residential rental property. **Ms. Cooney** said it appeared these were owner occupied properties. She didn't know if rental property was full market value and said they would have to check on that is the committee wanted to look at it further. **Chairman Devlin** said the reappraisal is done annually so there would be a 5% increase annually.

**Mr. Haralson** stated New Hampshire has an equalized valuation. Each municipality administers a property tax for education on the total equalized value on all non-utility property. It is based on a local assessed value. They have a homestead exemption for the older population with income caps. 23% of revenues go to the state. They are similar to Montana as far as the ratios are concerned. **Chairman Devlin** said he understood New Hampshire and Montana were very similar in their tax structure. New Hampshire relies on excise taxes and does not have a sales tax. *(Tape 4, Side B)*

**Mr. Haralson** advised North Dakota has a fractional assessment similar to New Hampshire. They have a sales tax. The state takes nothing for property taxation. They have disabled veteran and elderly exemptions. **Sen. Stonington** asked if there is any state that doesn't have a property tax. **Ms. Cooney** advised there are not a lot of countries that don't have property tax. It is the fundamental tax and there is no state that does not have one. North Dakota has other taxes they rely on. **Chairman Devlin** asked if the property tax funds primarily counties and municipalities and does not go to schools. **Sen. Story** said they basically have the same system as Montana. **Chairman Devlin** asked if there is an even split or is the trend more to leave property taxes to local governments. **Ms. Cooney** said it is either way depending on the structure. The assessment process in other states is locally administered. Montana is one of the few states where it is administered across the entire state. Other states may have a municipality assessment and tax bill and a county tax bill. For the majority of states they looked at, state collections of property taxes did not exist. **Chairman Devlin** asked if there is a relationship between those that have an alternative revenue source such as a sales tax as to whether or not the

state assesses mills. **Ms. Cooney** thought there is. Most of these states that do not take any portion of property tax for the state have a sales tax.

**Mr. Haralson** said South Dakota is a fractional assessment state. They utilize 85% of the market value. There are exemptions for veterans and senior citizens. There is a limitation put on locally as far as what can be collected for taxes. The state does not keep any of the property tax. It stays 100% locally. **Ms. Cooney** advised South Dakota has an alternative program—a tax refund program for senior citizens and the disabled coordinated with their sales tax program. **Sen. Barkus** asked about mass appraisal. **Mr. Haralson** indicated mass appraisal is ad valorem appraisal. It is typically done for ad valorem purposes.

**Ms. Cooney** advised Texas is a state with a 100% market value and a 3-year reappraisal cycle. They have a homestead exemption of \$15,000 off the market value. Their property tax is 100% at the local government level and they do have a sales tax. They don't have anything atypical in property tax circuit breakers or exemptions. They have the standard exemptions for the elderly and disabled veteran. The individual taxing jurisdictions also can offer exemptions up to 20% of a home's value as part of their budgeting process. **Sen. Story** asked if they only use the property tax for schools. It says if for those 65 and older their school taxes can't go up. **Ms. Cooney** said it is only their school taxes. The local government tax is not capped. **Chairman Devlin** said they are offering a flat dollar figure off the value of the property. In Montana, they could offer those over 65 years of age \$50,000 off their home. For a \$50,000 home, they would not pay anything. For a \$200,000 home, they would still pay taxes. He asked if their constitution was similar enough to Montana's. Montana has always worked on percentages. **Sen. Story** said it would involve rational basis. **Ms. Cooney** advised that is exactly where it would go. She was not sure what their constitution says, but she offered to look at it. She didn't think the constitution would outline whether they had to use a flat amount or a percentage amount. **Chairman Devlin** said within a class if they had a rational basis for some sort of exemption, they could use a percentage or a flat amount. **Ms. Cooney** said yes, according to what **Mr. Ohler** advised. **Sen. Story** said one of the states exempts only part of the residence. In Montana the logical thing to do to help people is to exempt part of the land. That would include those driven by the land values and not so much by the improvements.

**Mr. Haralson** stated Utah is a fractional assessment state. They take a 45% reduction from market value for the residential property only. They assess the tax at 100% on all their other types of property. They are on a five-year reappraisal cycle and do a yearly update by doing a review of current market value utilizing sales ratio studies and market analysis. They have the same sort of exemptions seen in other states. They are one of the only states that have an indigent abatement. **Sen. Story** thought it would be interesting to know the politics of what has gone on in Utah in the last ten years. They have a lot of the same issues. People coming in there to recreate have to be driving prices up. **Ms. Cooney** said they do but there is no dramatic legislation trying to address that. She talked to an appraiser in Reno about the Tahoe area. People are being taxed out of their houses. It is probably happening in Park City, Utah. There was an attempt to implement an acquisition value in Nevada that hasn't been successful. She said they could look into the history of what has gone on in the Utah legislature in the last few years. **Sen.**

**Story** said they might find out that's where the 15% exemptions came from. He said he would be interested in Utah, Colorado, Wyoming, and Idaho. **Chairman Devlin** thought it would be important to find out whether the state collects a portion of that money. He thought if the money is left locally the locals have a little more control over it. It is different than trying to equalize and spread the money all over the state.

**Ms. Whittinghill** offered that Arizona is looking at tax reform currently. Their recommendation is to go back to a statewide property tax. Many of the other states have similar school funding and litigation issues. Utah's effective tax rate is less than one on their property. They are having large school lawsuits.

**Mr. Haralson** addressed Wyoming. They are a fractional assessment state but are at the extreme end. They take 90.5% off the market value. They have an income tax. He suggested a sales tax would not cover all their ability to do that. The state takes a little share of that property tax but their energy development has a big impact as another source of revenue. They have a yearly update of their values utilizing a sales ratio study with a four year reappraisal cycle. They do a market analysis yearly to update their value. They review properties to help insure equality. **Ms. Cooney** advised they have a property tax relief program for the elderly, disabled and low income. This program allows up to ½ of taxes to become a lien against the property that has to be satisfied at the time of the sale of the property. It is a deferred tax payment. If the legislature has funding, they have a specific tax credit for taxpayers that provide tax relief on principal residences, particularly those in the lower range housing. **Chairman Devlin** asked how regularly that gets funded. He thought it would be hard for a home owner to plan. **Ms. Cooney** thought it would be interesting to look at the specifics. She said Wyoming is one of the states with a surplus. **Chairman Devlin** indicated four years ago they had a massive deficit. **Ms. Cooney** said they would check on how often they use that as they compile more information on Wyoming. **Sen. Story** asked if it would be possible to take a \$200,000 residential property and run it through each of these key states. **Chairman Devlin** indicated Wyoming would probably have the same property tax situation in the Jackson Hole area as Montana does in the western part of the state. **Sen. Story** asked if they could lay out the assessed value and the exemption and then step it.

**Ms. Cooney** said they have quite a bit of information to get back to the committee. She asked if they could have until the 15<sup>th</sup> of December.

**Chairman Devlin** advised the next item on the agenda was discussion by the committee on the effectiveness of the property tax system and the reliance on property tax. He thought it is effective because it does collect the needed revenue. He thought there would be a lot more discussion that could take place on the reliance on the property tax. **Sen. Stonington** was curious as to whether they were looking for little fixes that would apply to the outliers or to do something entirely different. **Chairman Devlin** said they talked about that on the lunch break. They have been given background information and need direction for the next meeting on what to do with the information. There may be a challenge to some of the things that have been done. He thought the other thing to take up was the growing valuation of residential property. **Sen. Barkus** advised from the information regarding the statistical data on the appraisal process he concluded the department has done an excellent job in terms of the appraisal process. He thought the

appraisal process itself was successful. He agreed with **Sen. Stonington**. **Sen. Story** said the issue is what is the committee here to solve. There were two competing ideas of how to deal with reappraisal in the last session. One was to do the fix that was done or to change the system and go to a different assessment. He thought that was what they were to look at. The present system is defensible. *(Tape 5, Side A)* There is a certain portion that can't be fixed with a broad fix. The problem is driven by the location. It is the value of the property under the house not the value of the house. Exemptions are a possible solution. Before the last session, they looked at not taxing the land under a house. That would help solve the Whitefish and Flathead Lake problems. He thought the solutions would include an acquisition system, a capped system like Michigan and Florida have, figuring out how to deal with the equity problem, the land issue or some exemption formula.

**Sen. Barkus** asked when an appraisal is done on Whitefish Lake if the appraisal truly reflects the value of the land without the house or is the property appraised as a whole unit. **Mr. Haralson** advised they analyze the land value by a modeling process. Sales prices are analyzed and the characteristics of the structure that contribute to the sale price.

**Sen. Stonington** said the acquisition bill in the last session was well formulated. It wasn't pure acquisition and was a sort of cap. The bill that **Sen. Story** carried was successful because the body thought it a fairer approach. The number of outliers on the bill was small. To try to address those small issues and go to those that have the means and value is going too far. She thinks the system works well.

**Rep. Gary Branae** thought the property tax has a bad reputation. They have worked on the property tax and acquisition value and have to continue to tweak this. He agreed with **Sen. Stonington** and **Sen. Story**.

**Chairman Devlin** thought the state reliance on property tax is part of the difficulty in finding a solution. The state relies on property taxes to fund the schools. Doing something drastic to help a small number has widespread effects. The actual loss of revenue fell short of the estimates. They sent out 10,000 applications and less than half of those responded. Of that half approximately half of those qualified because of the income test. The property tax relief amounted to \$140,000. Very few properties and people were actually affected. The average saving was \$75.

**Sen. Story** thought more would be known next year. As long as there are some property tax problems, the whole system is at risk. An initiative on the ballot for a cap or elimination could pass. I-105 didn't really change the system because property tax continued to go up because of fees. People in **Sen. Barkus'** area are motivated to change the system. The purpose of the committee is to get some background knowledge and some information for when bills come up in the next session.

**Chairman Devlin** asked for public comment. **Ms. Whittinghill** thought it important to get background information before the session. When bills come forward in the session they will have factual information to rely on.

**Sen. Stonington** thought they should revisit the land cap issue. **Chairman Devlin** thought if they were dealing with the land cap, they would have to have some idea of what the reduction and the dollar would be. If the land is capped, mill levies will increase on the structures and on other classes of property. **Ms. Cooney** offered to find the report from before the last session. **Rep. Devlin** thought it important to recognize the counties have 25% levied revenue. When property values are affected the services county and local governments provide will be affected. That will need to be taken care of with mill levy increases or elsewhere. This time they can't be backfilled by the state.

**Mr. Gordon Morris, MACo**, said the centerpiece of **MACo's** tax reform effort dating back to 1985 was having property taxed at 100% of taxable value without exception. He thought they should come up with a mass appraisal system that is constant on a year to year basis. That should be done as part of an overall tax package. Every one of their proposals would have taken funding for education out of the sales tax revenue and off the reliance on the property tax. There would be \$450-\$500 million in property tax relief. He thought that would be a reasonable approach. Property taxes have doubled in the last twenty years. The value of the mill has dropped and that is fueling the unrest. He pointed out counties, cities and towns are limited to how much tax revenue they can generate from one year to the next. Most of the increases are voted. He thought the work of the two committees has to come together. He didn't know how to solve the reappraisal crisis.

**Sen. Story** thought they need to put some numbers together such as the cost of taking the land off, taking half off, etc. Timelines and growth patterns need to be drawn so they know where they would be giving up revenue. The state can deal with its losses in the 95 mills but it will affect the other 370 mills being collected.

**Ms. Cooney** said because of the changes in the department they will have to redo the databases. It could be up to 60 days to provide those types of predictions. **Rep. Devlin** thought when the committee meets in January they would not need that information. He asked if they would be able to provide the \$200,000 house and run it through Idaho and Utah and look at their reliance on property taxes. **Ms. Cooney** indicated that part could be done by December 15<sup>th</sup>. **Sen. Story** said the exemption of land report is done. **Ms. Cooney** said they may have to call on Brad Simshaw to come in and help them with this process. **Sen. Story** was interested in percentage and was also interested in the flat dollar. **Chairman Devlin** commented on the land cap idea. When this came up his personal preference was to set up categories. He believes location drives the price. He wanted to see a system of categories for the land under the structure. Lakefront would be in one category and Ingomar would be a different one. **Ms. Cooney** said she would attempt to do something on that. It might be difficult as there are areas with a wide variance such as Choteau. **Chairman Devlin** said he was thinking in terms of legality if they were to divide Class 4 residential land into categories. **Ms. Cooney** said lakefront property might have a different cap than city or town lots. **Sen. Barkus** indicated one of the requests he made of the department was regarding the 20 acre homestead exemption for Montana residents. Non-residents would not qualify. He wondered if there was data available. **Chairman Devlin** said he understood that involved equal protection. That was where they were using the other tax system to credit that back. **Sen. Stonington** thought meeting with the other committee might help. She thought they need to create

scenarios for the 4% sales tax, limiting the property tax burden and taking schools out. The two committees could assist one another in their efforts.

**Chairman Devlin** advised they will have a short day with the other committee to share information and the committee will meet the following day. They will have these items they've discussed and the information from the department. **Sen. Stonington** didn't remember all the information regarding the land cap but thought they need to consider if the tax burden is taken off the land underneath the house what it does to a person on a city block. **Chairman Devlin** said the land cap had to do with the value of the property underneath the residence. He said **Sen. Barkus** had a 20 acre exempted proposal. **Sen. Story** advised **John Mercer's** land cap said up to five acres. **Mr. Haralson** said over 20 acres if it is non-qualified agricultural land. **Sen. Story** said the issue is how much land would be exempted. An acre needs to be exempted as an acre is needed for a septic system. *(Tape 5, Side B)* **Sen. Stonington** expressed concern about fairness. **Sen. Story** indicated it is finding what most people can live with. The original land cap was tied to a percentage of the value of the structure. He recalled the problem was the land not the structure. **Rep. Devlin** thought the discussion needed to be centered on the real estate, not the structure. That is what drives people off their property and causes the unpredictability in the system. His perspective was the increases have not been that bad. A small group of outliers were involved. The other consideration is how much to overhaul a system which for the most part works in order to satisfy a minority. **Sen. Stonington** said how much to exempt is an issue. **Chairman Devlin** mentioned Gallatin County was the county with the most parcels of land. **Sen. Stonington** said most of them in Gallatin County were in town. She thought the development around the county has driven up values in town and the renovations of the historic district were factors. **Chairman Devlin** said when they mapped the properties in the Flathead area they were not only around the lake. They were scattered throughout the counties. They were not centered necessarily in a recreation area. **Sen. Story** advised the problem with the parcel issue is most people can't sell a part of a parcel. Much of it can't be subdivided.

**Chairman Devlin** announced a tentative date for the next meeting of January 12<sup>th</sup>. They will meet with the **Tax Reform Committee** and on January 13th the **Property Tax Appraisal Committee** will meet at 9:00 a. m.

**Chairman Devlin** adjourned the meeting at 3:30 p. m.

Minutes read and approved by \_\_\_\_\_  
Representative Ron Devlin, Chair                      Date \_\_\_\_\_

Sen. Emily Stonington, Vice Chair	Date
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